HONOURABLE SRI JUSTICE ELIPE DHARMA RAO

W.P.No.15837 of 2005

Dated:28th July, 2005

Between:

Ammuguda Plot Owners Association,

A society regd.under Societies Registration

Act, rep.by its Secretary

…PETITIONER

and

1. The Commissioner, Kapra Municipality,

Ranga Reddy District and another

…RESPONDENTS

HONOURABLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.15837 of 2005

ORDER:

This writ petition is filed by the petitioner to direct the respondents not to convert the Park in Sy.Nos.5 to 7, 10/1, 11/1, 12/1, 12/2 and 13/2 of Ammuguda village, under Kapra Municipality, under the lay out of HUDA, into Football ground.

2. According to the petitioner-Ammuguda Plot Owners Association, on the directions of HUDA, the owners of the land in Sy.Nos.5 to 7, 10/1, 11/1, 12/1, 12/2 and 13/2 of Ammuguda village, under Kapra Municipality, executed a gift settlement deed in favour of Kapra Municipality in respect of the land admeasuring an area of 17, 614 sq.yards towards Roads and an area of 5893 sq.yards for Park. But the second respondent-Councilor, Kapra Municipality, due to political reasons, tried to convert the said Park into a Football ground and with that objective in mind he got the trees in the park uprooted and dismantled the sump got constructed by the society. Therefore, the petitioner lodged a police complaint about the illegal activities of the second respondent, but the police have not taken any action. Thereafter, they made a complaint before the first respondent-Commissioner, Kapra Municipality, objecting for the conversion of the park into Football ground, but he has opined that the Kapra Municipality itself is interested to convert the park into Football ground. It is further stated that the Kapra Municipality has already acquired the land in Sy.No.199 of Dammaiguda village in Kapra Municipality, for construction of Football stadium and foundation stone was also laid by the then Honourable Home Minister. Thereafter, the petitioner gave a representation dated 21-03-2003 to the then Home Minister objecting the said conversion of park into Football ground, but of no avail. Therefore, another representation dated 14-05-2003 was also given to the first respondent not to allow the said conversion. Hence, this writ petition has been filed.

3. The first respondent filed a counter-affidavit admitting the approval of the lay out in Sy.Nos.5 to 7, 11/1, 12/1, 12/42 and 13/2 dated 28-08-2002 situated at Ammuguda village, in favour of K.Balaraj and others and lay out was finally released on 29-08-2002. Thereafter, Balaraj and others have executed a notarized gift deed dated 21-08-2002 handing over the road and open space to the respondent-Municipality. As per the final lay out, the lay out owners handed over the area of an extent of 17,614 sq.yards towards roads and 5,893 sq.yards area for parks. Ultimately, it is stated in the counter-affidavit that the Municipal Councilor has acquired Ac.12.00 of land for construction of Sports stadium in Sy.No.199 of Kapra village, which is about 6 kilometres from the open space of petitioner's-Radhakirshnapuram Colony. Further, on the basis of the complaint

given by the petitioner dated 14-05-2003, the respondent Municipality has issued UO Note to Municipal Engineer dated 04-12-2004 to fence the open spaces in the lay out to safeguard the same from the encroachers in future. Accordingly, the Municipal Council accorded administrative sanction for an amount of Rs.4,80,000/- to take up the work for providing chain link/barbed wire fencing. For the said work, tenders were called for on 18-02-2005 and one M/s.Jyothi Waddera, Labour Contract Co-operative Society Limited, the lowest tenderer, was entrusted with the work by order dated 29-04-2005. It is also further stated that they have obtained the permission of the Mandal Revenue Officer dated 15-06-2005 for removal of two big trees which are in existence in the center of the play ground and park which are to be cut off to clear off the ground so as to enable to put into the site as play ground and park. Hence, the writ petition may be dismissed.

4. Heard both sides and considered the material on record.

5. After hearing both the learned counsel and as per the facts and circumstances stated above, it is clear that the respondent-Municipal Council is using the land entrusted by the petitioner from its lay out to create a Playground and park, which is not permissible under law. It is also evident from the counter-affidavit that on 15-06-2005, the respondents obtained permission from the Mandal Revenue Officer to remove two big trees, which are in existence of the center of the playground and park.

6. In view of the facts and circumstances, I deem it appropriate to direct the Kapra Municipality to maintain intact the area ear-marked for parks and roads without converting it into a Football ground. If for any reason, the respondents are trying to convert the area, above mentioned, into playground, the petitioner is at liberty to approach this Court seeking appropriate relief.

7. The writ petition is accordingly disposed of. No order as to costs.

E.DHARMA RAO, J

28th July, 2005

SKM